

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

ROCHE CYRULNIK FREEDMAN LLP,

Plaintiff,

v.

JASON CYRULNIK,

Defendant.

Case No. 1:21-cv-01746 (JGK)(SN)

JASON CYRULNIK,

Counterclaim-Plaintiff,

v.

ROCHE CYRULNIK FREEDMAN LLP,
KYLE ROCHE, DEVIN FREEDMAN, AMOS
FRIEDLAND, NATHAN HOLCOMB, and
EDWARD NORMAND,

Counterclaim-Defendants.

**PLAINTIFF’S MEMORANDUM OF LAW
IN SUPPORT OF ITS MOTION TO AMEND THE CAPTION**

Plaintiff Roche Freedman LLP (f/k/a Roche Cyrulnik Freedman LLP) (Plaintiff or the “Firm”) respectfully submits this Memorandum of Law in support of its Motion to Amend the Caption.

On February 27, 2021, Plaintiff commenced this action against Defendant Jason Cyrulnik under its then-current name, Roche Cyrulnik Freedman LLP. (Dkt. No. 1.) In the complaint, Plaintiff seeks, among other things, a declaration that Cyrulnik had been properly removed from the

Firm for cause earlier that month. (*Id.* ¶ 75.) On March 12, 2021, Cyrulnik formed a competing law firm called Cyrulnik Fattarusio LLP and began practicing there. (*See* Dkt. No. 105-5; Dkt. No. 141-5 at 18.)

On April 8, 2021, the Firm formally changed its name with the Florida Department of State to Roche Freedman LLP. (Hecker Decl., Ex. 1.) This change was required by 22 NYCRR, Part 1200, Rule 7.5(b), which states that a “lawyer in private practice shall not practice under . . . a name that is misleading as to the identity of the lawyer or lawyers practicing under such name, or a firm name containing names other than those of one or more of the lawyers in the firm.” *Id.* Cyrulnik appears to recognize this change was necessary stating in one filing that the Firm’s

use of Cyrulnik’s name in the caption would raise ethics concerns had his purported termination been effective prior to that time, since it would involve the use of a trade name containing the name of an unaffiliated partner.

DE 20 at 11-12 (citing 22 NYCRR, Part 1200, Rule 7.5).

In this motion, Plaintiff requests the caption be amended to reflect its current and actual name, Roche Freedman LLP, as opposed to its former name, Roche Cyrulnik Freedman LLP. Whether “to amend a case caption is within the Court’s discretion and should be based on factors such as promoting clarity and avoiding confusion.” *Hoemke v. Macy’s W. Stores LLC*, 2020 WL 5229194, at *1 (D. Ariz. Sept. 2, 2020). Courts have “allowed entities to amend a case caption to reflect changes in the entity’s corporate form and name.” *Gramm v. Deere & Co.*, 2021 WL 8321873, at *2 (N.D. Ind. Nov. 15, 2021) (quotations and citations omitted); *see Applera Corp. v. MJ Research Inc.*, 2004 WL 5683983, at *1 n.1 (D. Conn. Dec. 17, 2004) (“On June 3, 2003, this Court granted plaintiff’s motion to amend the caption in this lawsuit to reflect the official change in Plaintiff’s identity from ‘PE Corporation’ to ‘Applera Corporation.’”); *Clark v. Hanley*, 2022 WL 124298, at *1 n.1 (D. Conn. Jan. 13, 2022) (“When this action was filed, the plaintiff’s name

was Nicholas Clark, and the Court recently granted her motion to amend the case caption to reflect her December 2021 name change.”); *cf. Valentin v. N.Y. State Dep’t of Corr. & Cmty. Supervision*, 2012 WL 13209709, at *1 n.1 (S.D.N.Y. May 23, 2012) (amending caption to reflect change in entity’s name).

Plaintiff seeks to do that here. Cyrulnik is no longer practicing at the Firm, has opened a competing law firm, and the Firm cannot ethically use his name. *See* 22 NYCRR, Part 1200, Rule 7.5(b). Moreover, the Florida Department of State formally processed the name change over a year ago and the Firm has been called Roche Freedman LLP ever since. Finally, Cyrulnik will not suffer any prejudice as a result of a change to the caption because “changing the case caption is merely ministerial.” *Gramm*, 2021 WL 8321873, at *2 (quoting *Paleteria La Michoacana, Inc. v. Productos Lacteos Tocumbo S.A. de C.V.*, 2016 WL 10839543, at *2 (D.D.C. Mar. 31, 2016)).

For the foregoing reasons, Plaintiff respectfully requests the case caption be changed from *Roche Cyrulnik Freedman LLP v. Jason Cyrulnik*, No. 1:21-cv-01746 (JGK)(SN) (S.D.N.Y.), to *Roche Freedman LLP v. Jason Cyrulnik*, No. 1:21-cv-01746 (JGK)(SN) (S.D.N.Y.)

Dated: July 7, 2022

By: 

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CERTIFICATE OF COMPLIANCE

I hereby certify that according to the word count feature of the word processing program used to prepare this brief, the brief contains 695 words (exclusive of the cover page, certificate of compliance, table of contents, and table of authorities), and complies with Local Civil Rule 11.1 of the Southern District of New York, as well as with this Court's Individual Practice Rule 2.D.



Sean Hecker